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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE COMPANY,

Debtor.

Case No. BK-S-06-10725-LBR

Chapter 11

**DECLARATION OF GEOFFREY
BERMAN IN SUPPORT OF
OMNIBUS OBJECTIONS OF
USACM TRUST TO PROOFS OF
CLAIM BASED IN WHOLE OR IN
PART UPON INVESTMENT IN THE
CASTAIC PARTNERS II LOAN**

Date of Hearing: September 30, 2011

Time of Hearing: 9:30 a.m.

Estimated Time for hearing: 10 min.

I, Geoffrey L. Berman, declare under penalty of perjury:

1. I am an adult person competent to testify in court.

2. I make this declaration based upon my personal knowledge, and upon the
ds USA Commercial Mortgage Company.

3. I am the Trustee of the USACM Liquidating Trust (“USACM Trust”), which is an entity created by the Debtors’ Third Amended Joint Chapter 11 Plan of Organization (“Plan”), in the jointly-administered bankruptcy cases, In re USA Commercial Mortgage Company, BK-S-06-10725-LBR, pending in the United States Bankruptcy Court for the District of Nevada.



1 4. USACM circulated an Offer Sheet to prospective Direct Lenders soliciting
2 funding for an acquisition and development loan to a borrower identified as "Castaic
3 Partners II, LLC." A copy of the Offer Sheet is attached hereto as **Exhibit B** and
4 incorporated by this reference. The total loan amount proposed was \$5,600,000. The
5 Offer Sheet described the investment as a "First Trust Deed Investment" and noted that
6 the investment would be secured by a first deed of trust on approximately 300 acres of
7 property in the hillside of Castaic, in Los Angeles County, California. The Offer Sheet
8 further provides a loan to value percentage of 36%, based on a March 2005 sale
9 agreement with Toll Brothers." The Offer sheet stated that an appraisal was in process.¹
10 Pursuant to the Loan Agreement, the loan was intended to be used to acquire the subject
11 property.

12 5. On July 11, 2005, Borrower made and delivered to various lenders,
13 including the Direct Lenders identified in **Exhibit A**, a "Promissory Note Secured by
14 Deed of Trust" (the "Note") and a Loan Agreement. The Note and Loan Agreement
15 provided for a loan of \$5,600,000. The Note was secured by a "Deed of Trust,
16 Assignment of Rents, Security Agreement and Fixture Filing" from the Borrower in favor
17 of the Direct Lenders that was recorded in the official records of Los Angeles County,
18 California on July 26, 2005 at Instrument Number 2005-1761534. The Note was also
19 supported by a Guaranty executed by William Barkett on July 11, 2005.

20 6. The USACM "Loan Summary" dated July 31, 2006 and filed in this case
21 shows that Borrower was "Performing" on the Note as of July 31, 2006, due to the fact
22 that sufficient cash was being held by the Disbursing Agent to pay the outstanding
23 interest due. Pursuant to the February 28, 2007 "Loan Summary" filed in this case, the
24 loan was in interest default as of February 2007.

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¹ An appraisal was subsequently obtained on November 29, 2005, which value the hypothetical "paper lots" market value at \$28,800,000.



1 I declare under penalty of perjury that the foregoing is true and correct.
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3 Dated: August 6, 2011
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5 /s/ Geoffrey L. Berman
6 Copy of the foregoing mailed (without
7 Exhibits) by first class postage prepaid
U.S. Mail on August 6, 2011 to
All investors listed on Exhibit A
8 Attached.
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10 Geoffrey L. Berman
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12 s/ Renee L. Creswell
13 Renee L. Creswell
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